

APPEAL NO. 232101399A

APPENDIX A  
COMPACT OF 1834

Act of June 28, 1834, 4 Stat. 708 (1834)

CHAP. CXXVI.—*An Act giving the consent of Congress to an agreement or compact entered into between the state of New York and the state of New Jersey, respecting the territorial limits and jurisdiction of said states.*<sup>(b)</sup>

WHEREAS commissioners duly appointed on the part of the state of New York, and commissioners duly appointed on the part of the state of New Jersey, for the purpose of

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<sup>(b)</sup> The decisions of the Supreme Court upon the compacts between states have been:—

The compact of 1789, between Virginia and Kentucky, was valid under that provision of the constitution which declares, that "no state shall, without the consent of Congress, enter into agreement or compact with another state, or with a foreign power:" no particular mode, in which that consent must be given, having been prescribed by the constitution; and Congress having consented to the admission of Kentucky into the Union, as a sovereign state, upon the conditions in the compact. *Green v. Biddle*, 8 Wheat. 1; 5 Cond. Rep. 369.

The compact is not invalid upon the ground of its surrendering rights of sovereignty, which are inalienable. *Ibid.*

To bring a case within the protection of the seventh article in the compact between Virginia and Kentucky, it must be shown that the title to the land asserted, is derived from the laws of Virginia, prior to the separation of the two states. *Lessee of Fisher v. Cockerell*, 5 Peters, 247.

The construction of a compact between the states of Virginia and Pennsylvania, is not to be settled by the laws or decisions of either of those states, but by the compact itself. *Marlatt v. Silk et al.*, 11 Peters, 1.

The decision of a question of the construction of such a compact, is not to be attested from the decisions of either state, but is one of an international character. *Ibid.*

It is a part of the general right of sovereignty, belonging to independent nations, to establish and fix the disputed boundaries

agreeing upon and settling the jurisdiction and territorial limits of the two states, have executed certain articles, which are contained in the words following, viz:

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between the respective limits; and the boundaries so established and fixed by compact between nations, become conclusive upon all the subjects and citizens thereof, and bind their rights; and are to be treated, to all intents and purposes, as the real boundaries. This right is expressly recognised to exist in the states of the Union, by the constitution of the United States; and is guarded in its exercise by a single limitation or restriction, only, requiring the consent of Congress. *Ibid.*

The compact between New Jersey and Pennsylvania, recognises the right of fishery in riparian owners on the Delaware. *Bennet v. Boggs*, Baldwin's C. C. R. 60.

The plaintiffs, in the circuit court of West Tennessee, instituted an ejectment for a tract of land held under a Virginia military land warrant, situate south of a line called Mathews' line, and south of Walker's line; the latter being the established boundaries between the states of Kentucky and Tennessee, as fixed by a compact between those states, made in 1820; by which compact, although the jurisdiction over the territory to the south of Walker's line, was acknowledged to belong to Tennessee, the titles to lands held under Virginia military land warrants, &c.; and grants from Kentucky, as far south as "Mathews' line," were declared to be confirmed: the state of Kentucky having, before the compact, claimed the right to the soil, as well as the jurisdiction over the territory, and having granted lands in the same. The compact of 1820 was confirmed by Congress. The defendants in the ejectment claimed the lands under titles emanating from the state of North Carolina, in 1786, 1794, 1795; before the formation of the state of Tennessee; and grants from the state of Tennessee, in 1809, 1811, 1812, 1814, in which the lands claimed by the defendants were situated, according to the boundary of the state of Tennessee, declared and established at a time when the state of Tennessee became one of the states of the United States. The circuit court instructed the jury that the state of Tennessee, by sanctioning the compact, admitted, in the most solemn form, that the lands in dispute were not within her jurisdiction, nor within the jurisdiction of North Carolina, at the time they were granted; and that, consequently, the titles are subject to the compact: Held, by the Supreme Court, that the instructions of the circuit court were entirely correct. *Poole v. Fleeger*, 11 Peters, 185.

The seventh article of the compact between Virginia and Kentucky declares "all private rights and interests of lands within the

Agreement made and entered into by and between  
Benjamin F. Butler, Peter Augustus Jay and Henry

said district (Kentucky,) derived from the laws of Virginia, prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state (Virginia)." Whatever course of legislation, by Kentucky, would be sanctioned by the principles and practice of Virginia, should be regarded as an unaffected compliance with the compact. Such are all reasonable quieting statutes. *Hawkins v. Barney's Lessee*, 5 Peters, 457.

From as early a date as the year 1705, Virginia has never been without an act of limitation; and no class of laws is more universally sanctioned by the practice of nations, and the consent of mankind, than those laws which give peace and confidence to the actual possessor and tiller of the soil. Such laws have frequently passed in review before the Supreme Court; and occasions have occurred in which they have been particularly noticed, as laws not to be impeached on the ground of violating private rights. It is impossible to take any reasonable exception to the course of legislation pursued by Kentucky on this subject. She has in fact literally complied with the compact in its most rigid construction. For she adopted the very statute of Virginia in the first instance, and literally gave her citizens the full benefit of twenty years to prosecute their suits, before she enacted the law now under consideration. As to the exceptions and provisoes, and savings in such statutes, they must necessarily be left, in all cases, to the wisdom or discretion of the legislative power. *Ibid.*

It is not to be questioned, that laws limiting the time of bringing suits constitute a part of the *lex fori* of every country; the laws for administering justice, one of the most sacred and important of sovereign rights and duties, and a restriction upon which must materially affect both legislative and judicial independence. It can scarcely be supposed that Kentucky would have consented to accept a limited and crippled sovereignty; nor is it doing justice to Virginia to believe that she would have wished to reduce Kentucky to a state of vassalage. Yet it would be difficult, if the literal and rigid construction necessary to exclude her from passing the limitation act were adopted, to assign her a position higher than that of a dependent on Virginia. *Ibid.*

The limitation act of the state of Kentucky, commonly known by the epithet of "the seven years law," does not violate the compact between the state of Virginia and the state of Kentucky. *Ibid.*

Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance ~~of~~ an act of the legislature of the said state, entitled "An act concerning the territorial limits and jurisdiction of the state of New York and the state of New Jersey, passed January 18th, 1833, of the one part; and Theodore Frelinghuysen, James Parker, and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February 6th, 1833, of the other part.

ARTICLE FIRST. The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river, opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the Bay of New York, of the waters between Staten Island and New Jersey, and of Raritan Bay, to the main sea; except as hereinafter otherwise particularly mentioned.

ARTICLE SECOND. The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis's islands; and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned and now under the jurisdiction of that state.

ARTICLE THIRD. The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York; and of and over all the waters of Hudson river lying west of Manhattan Island and to the south of the mouth of Spuytenduyvel creek; and of and over the lands covered by the said waters to the low water-mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the state of New Jersey, that is to say:



1. The state of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York, and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

2. The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks, and improvements, made and to be made on the shore of the said state; and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the state of New York, which now exist or which may hereafter be passed.

3. The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, *Provided*, That the navigation be not obstructed or hindered.

ARTICLE FOURTH. The state of New York shall have exclusive jurisdiction of and over the waters of the Kill Van Kull between Staten Island and New Jersey to the westernmost end of Shooter's Island in respect to such quarantine laws, and laws relating to passengers, as now exist or may hereafter be passed under the authority of that state, and for executing the same; and the said state shall also have exclusive jurisdiction, for the like purposes of and over the waters of the sound from the westernmost end of Shooter's Island to Woodbridge creek, as to all vessels bound to any port in the said state of New York.

ARTICLE FIFTH. The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound between Staten Island and New Jersey lying south of Woodbridge creek, and of and over all the waters of Raritan bay lying westward of a line drawn from the

lighthouse at Prince's bay to the mouth of Mattavan creek; subject to the following rights of property and of jurisdiction of the state of New York, that is to say:

1. The state of New York shall have the exclusive right of property in and to the land under water lying between the middle of the said waters and Staten Island.

2. The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made on the shore of Staten Island, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New Jersey, which now exist or which may hereafter be passed.

3. The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten Island and the middle of the said waters: *Provided*, That the navigation of the said waters be not obstructed or hindered.

ARTICLE SIXTH. Criminal process, issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the third article; and also civil process issued under the authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon, or fastened to, the shore of

the state of New York, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York.

ARTICLE SEVENTH. Criminal process issued under the authority of the state of New York against any person accused of an offence committed within that state, or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid, or committed against the regulations made or to be made by that state in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York against any person domiciled in that state, or against property taken out of that state, to evade the laws thereof, may be served upon any of the said waters within the exclusive jurisdiction of the state of New Jersey, unless such person or property shall be on board a vessel aground upon or fastened to the shore of the state of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New Jersey.

ARTICLE EIGHTH. This agreement shall become binding on the two states when confirmed by the legislatures thereof, respectively, and when approved by the Congress of the United States.

Done in four parts (two of which are retained by the commissioners of New York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the governor of that state,) at the city of New York this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three



and of the independence of the United States the fifty-eighth.

B. F. BUTLER,  
PETER AUGUSTUS JAY,  
HENRY SEYMOUR,  
THEO. FRELINGHUYSEN,  
JAMES PARKER,  
LUCIUS Q. C. ELMER.

And whereas the said agreement has been confirmed by the legislatures of the said states of New York and New Jersey, respectively,—therefore,

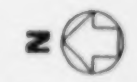
*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the consent of the Congress of the United States is hereby given to the said agreement, and to each and every part and article thereof, *Provided,* That nothing therein contained shall be construed to impair or in any manner effect, any right of jurisdiction of the United States in and over the islands or waters which form the subject of the said agreement.

APPROVED, June 28, 1834.





REGION  
LIBERTY ISLAND / ELLIS ISLAND  
STATUE OF LIBERTY NATIONAL MONUMENT  
NEW YORK / NEW JERSEY



# THE COMPACT OF 1834

## The Five (5) Meanings of Boundary





MAP  
OF THE BOUNDARY LINE BETWEEN  
STATES NEW YORK NEW JERSEY

IN LANDS UNDER WATER IN KILL VON KULL AND NEW YORK BAY

From the Rakover and Chin Bridge in Arthur Kill near Elizabethport, New Jersey  
to the Hudson River opposite the Battery, New York City

Agreed upon by the Commissioners appointed by the Governors of said respective States on December twenty third 1882

New York Commissioners

W. H. HAZELTINE

ROBERT MOORE

G. C. MOORE

This showing the agreed upon line to the water of the  
boundary of the State of New York

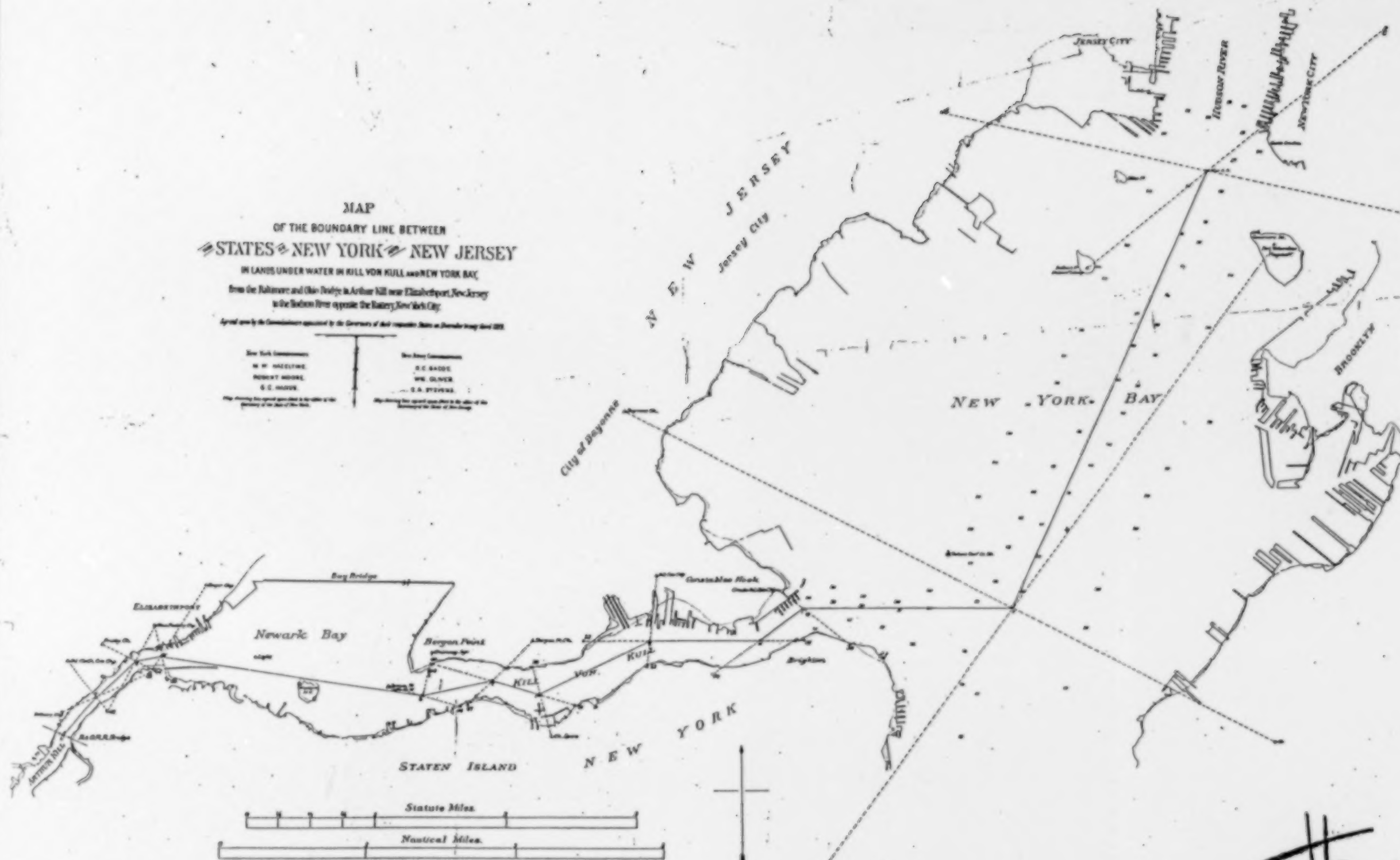
New Jersey Commissioners

G. C. BASSIE

WM. OLIVER

G. A. PETERSON

This showing the agreed upon line to the water of the  
boundary of the State of New Jersey



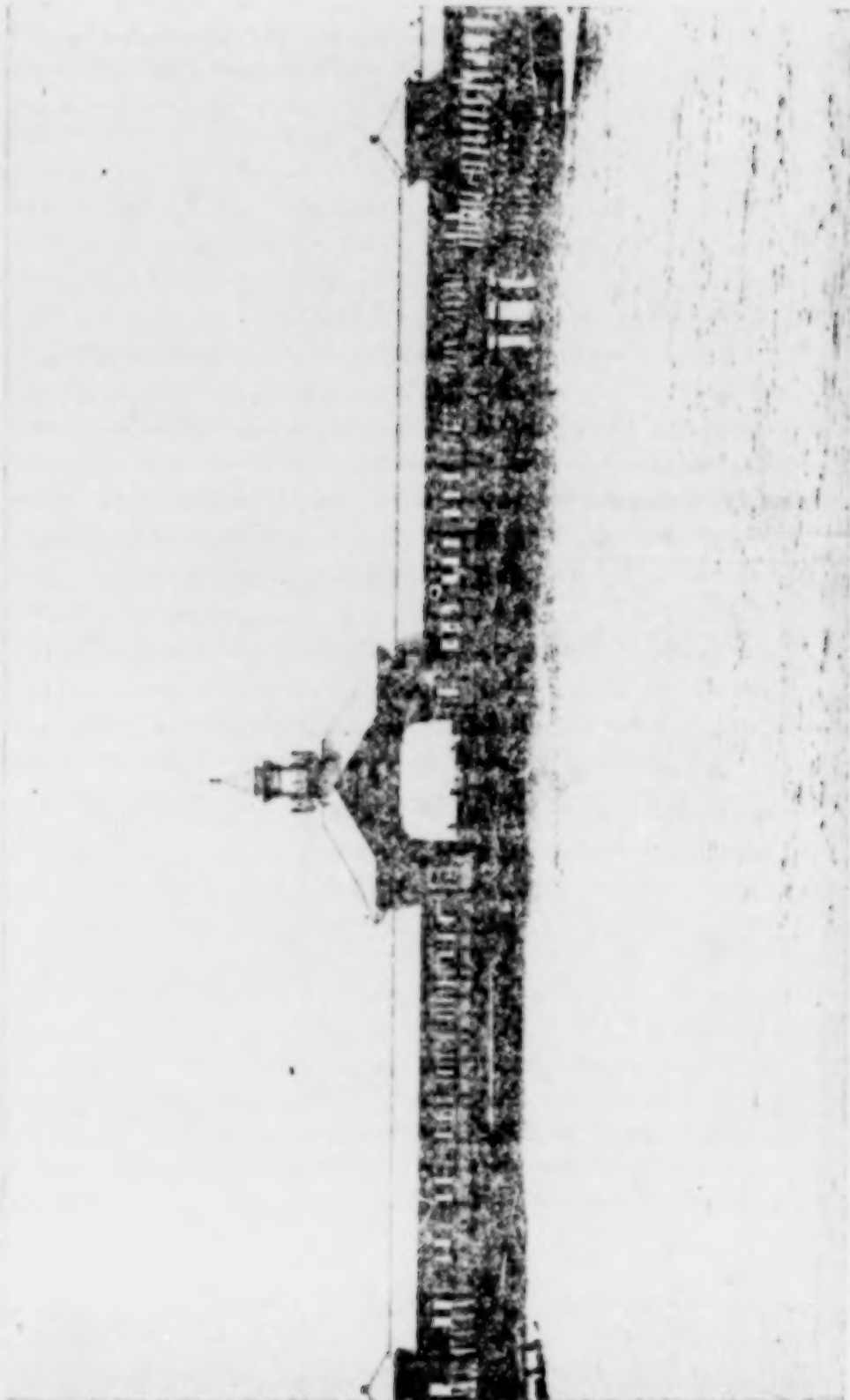
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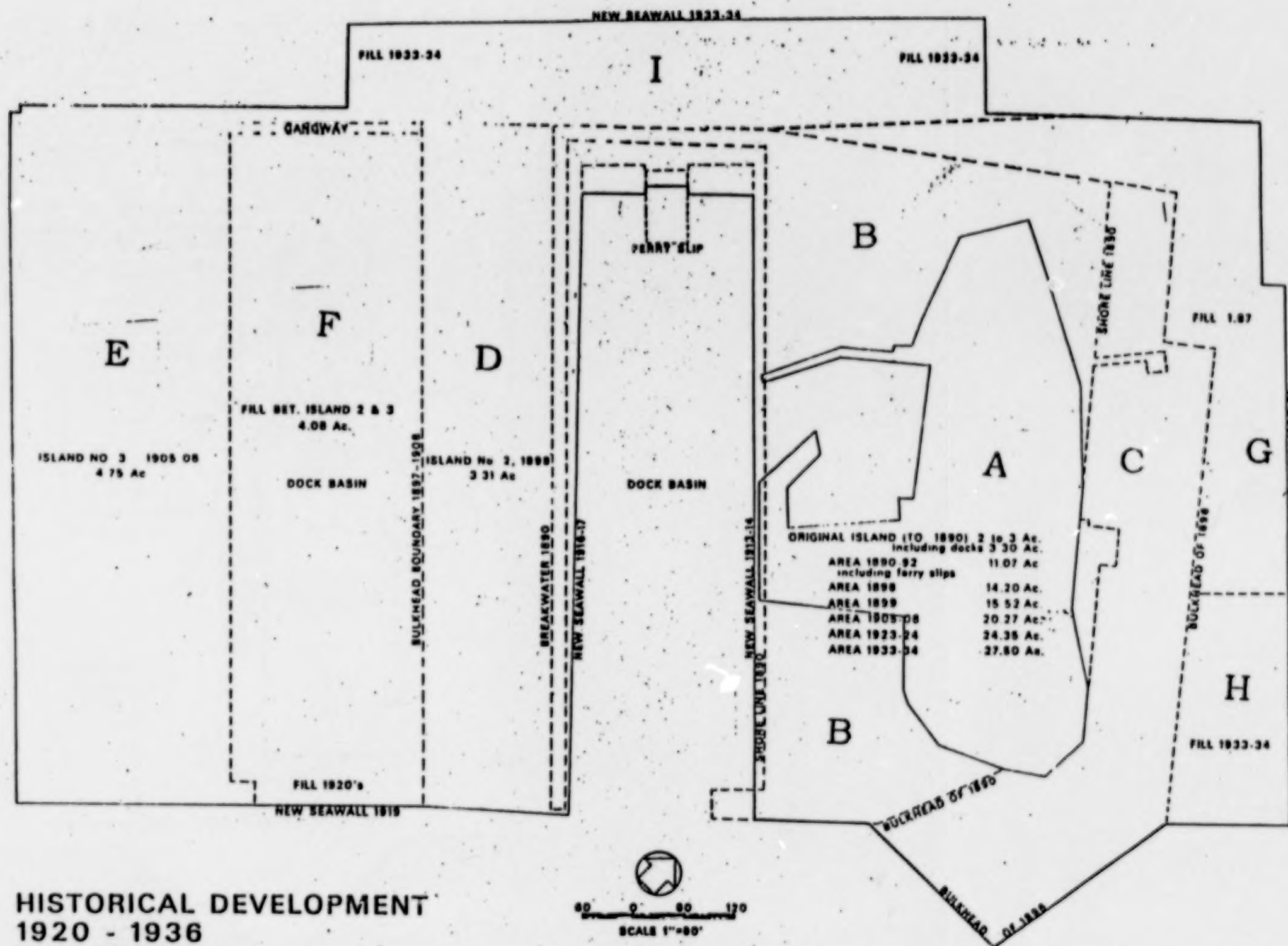




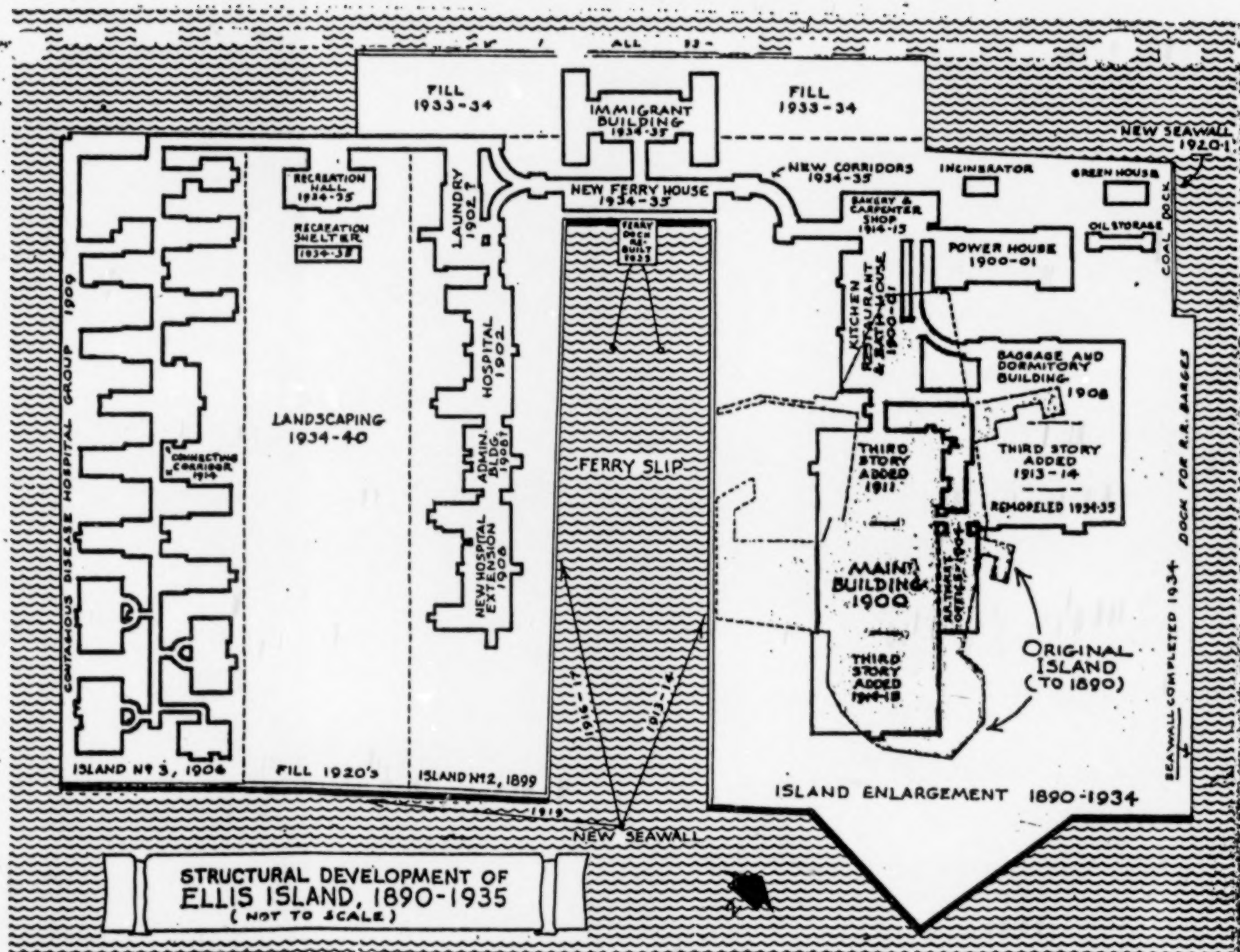
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APPENDIX E





**HISTORICAL DEVELOPMENT  
1920 - 1936  
ELLIS ISLAND  
STATUE OF LIBERTY NATIONAL MONUMENT  
NEW YORK / NEW JERSEY**



ON MICROFILM

HISTORIC BASE MAP



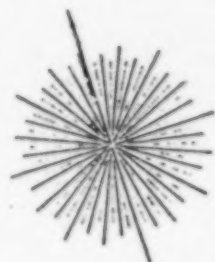
# JERSEY CITY

NEW JERSEY CENTRAL RAIL ROAD CO'S DOCKS

HUDSON RIV.

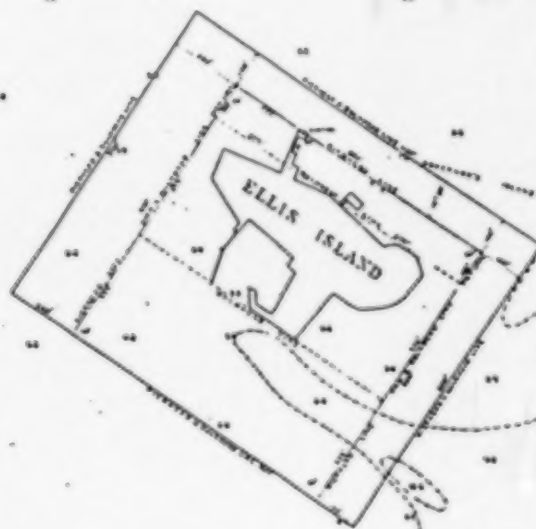
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APPENDIX G



The accompanying report to the Chief of Engineers, U.S.A.,  
Washington, D.C., dated New York, June 11, 1890.  
The location lines shown on this plan are not, as those  
recommended by the New York Harbor Line Board for adoption.

Wm. L. Abbott  
Ch. Engr. Dist. N.Y. Harbor  
Wm. L. Craig  
Wm. L. Craig  
Ch. Engr. Dist. N.Y. Harbor  
S. C. Houston  
Joc. of Engrs.  
H. L. Higgins  
Washington

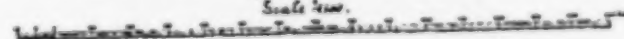


Pierhead and Bulkhead Lines  
for  
Ellis Island, New Jersey,  
New York Harbor  
as recommended by the  
New York Harbor Line Board

appointed  
for the establishment of the location lines of New York Harbor and its adjacent  
waters by Special Order No. 48, Chief of Engineers, U.S.A., Washington, D.C.,  
Oct. 1, 1888, in accordance with Section 14, Act of August 8, 1888.

June 1890

Scale 1/2 in.



War Department  
July 9, 1890.

Approved

Benjamin Root

Secretary of War

War Department  
Relate to, 1890.

The modifications in the Pierhead and Bulkhead  
Lines shown on this plan are approved.

Samuel H. Kneass

Secretary of War

104 201.8





## APPENDIX H

## MEMORANDUM OF UNDERSTANDING

IN REGARD TO ESTABLISHING A BI-STATE  
PUBLIC CORPORATION TO BE KNOWN AS THE  
STATUE OF LIBERTY TRUST FUND*ARTICLE I*

Liberty and Ellis Islands are national treasures symbolizing our nation as a land of hope for people yearning for freedom, justice, equality of opportunity and a better life.

The Statue of Liberty was the first sight of thousands of immigrants to the United States. The view of the Statue standing in the harbor symbolized the start of a new life with greater opportunities and challenges in this country. Ellis Island was the soil on which these immigrants first stepped in their new world.

There is now pending a lawsuit that seeks to determine the respective sovereignty and jurisdiction of the States of New Jersey and New York over Liberty and Ellis Islands. In view of the special subject matter involved, it is fitting that such conflicts be avoided by dedicating the economic benefits of sovereignty and jurisdiction over the Islands to a regional purpose related to the symbolic meaning of the Statue of Liberty and Ellis Island. However, since these Islands have long been under effective federal title, they can truly be said to belong to all of the people of the United States.

Today, the homeless population of the States of New York and New Jersey is a reminder that there are still many in this region for whom hopes of a better life remain unfulfilled. It is appropriate, in this centennial year of the Statue of Liberty, that Ellis and Liberty Islands, the

nation's monuments to the vast numbers of people who came from other countries seeking a better life, be rededicated to the assistance of our homeless population.

Homelessness is a regional problem that demands regional solutions. Because of the ease of access to interstate transportation and the very nature of their transient existence, the homeless now travel back and forth across state borders quickly and easily. It is therefore appropriate that the States of New Jersey and New York work cooperatively to develop and promote programs to assist homeless men, women and children in both states in obtaining decent and affordable shelter.

## *ARTICLE II*

The Governors of the States of New York and New Jersey hereby agree to use their best efforts to secure enactment of identical legislation in their respective states which shall establish a bi-state public corporation to be known as the "Statue of Liberty Trust Fund" (hereinafter "the Fund").

The Fund shall be managed by an eleven member board of directors, five to be appointed by the Governor of the State of New York and five to be appointed by the Governor of the State of New Jersey, and one director, who shall be designated the chairperson of the board, to be appointed by the Governors jointly. All board members shall serve without compensation, but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties. The term of office of each member shall be five years and each member shall hold office until his successor shall have been appointed.

No action of the board of directors of the Fund shall be binding unless taken at a meeting at which at least three of the members from each state are present and vote

in favor thereof. The board of directors of the Fund shall annually submit a plan for the expenditure of the resources of the Fund which shall only become effective upon the approval of both Governors.

### *ARTICLE III*

The purpose of the Fund shall be to provide aid to homeless persons within the States of New Jersey and New York. The Fund shall accomplish this objective primarily by entering into contracts with or making grants to local social services districts or to other public or private entities in each state which aid homeless persons, pursuant to such criteria as each state shall provide. For the purposes of this agreement, "homeless persons" shall mean undomiciled persons who are unable to secure adequate, permanent and stable housing in the States of New York and New Jersey without special assistance. The Fund shall coordinate with social service organizations of both states to ensure that resources are provided to the most cost-effective programs for the homeless and are used to address the most pressing needs in this regard. Resources of the Fund shall be provided to appropriate agencies and other organizations from each state on an equal basis.

### *ARTICLE IV*

The Governors of New York and New Jersey agree that it is appropriate that the States of New York and New Jersey each appropriate annually to the Fund upon its establishment, through the states' respective budgets, the amounts described in this article to effectuate the intent of this agreement.

Such annual appropriation by each state shall be in an amount equal to the amount, as determined in the manner hereafter described, set forth in the certificate of

its tax administrator as the total of a) all state and local tax revenues collected by that state and its localities, after deducting administrative costs, from the taxes hereafter set forth during the prior calendar year which are attributable directly to Ellis and Liberty Islands and b) the amount collected by that state and its localities, and one-half of the amount collected by joint agencies thereof, from the fees hereafter described during the same period. Such state and local taxes which shall be taken into account for the purpose of such annual appropriation are the following taxes presently or hereafter imposed by the respective states and their localities: franchise, or business privilege or like taxes on the doing of business; taxes imposed on the earnings or income of business entities (including corporations) or individuals; and sales and compensating use taxes. The fees which shall be taken into account for the purpose of such appropriation are those fees now or hereafter collected by either state or its localities, and one-half of the amount collected by joint agencies thereof, for the provision of public access to or from Ellis or Liberty Islands. The tax administrator of each state shall, for the purpose of fixing the required amount of the annual appropriation to the Fund, certify to the legislature of his state and the Fund a) his estimate of the amount, less costs of administration, of the state and local revenues collected during the prior calendar year from the aforestated taxes which are attributable directly to the Islands, and b) the appropriate amount of such fees collected during such period, and the appropriations to be made by each state shall be equal to the total set forth in such certification of its tax administrator. The two states shall prescribe uniform procedures and methods to be employed by the tax administrators in making the estimation of such state and local tax revenues required to be included in such certification and such other uniform procedures as may be necessary to effectuate the terms of this agreement.



For the purpose of determining revenue attribution of the above enumerated state and local taxes to Ellis or Liberty Islands the following shall apply:

1. Traditional revenue attribution. For the purposes of determining revenue attribution, if any, of any particular such state or local tax to Ellis or Liberty Island, the same method or concept with respect to allocation or attribution which is used for the purpose of determining allocation to the state or locality with respect to that particular tax as administered by the state (or locality) imposing such tax shall be applied in making the determination with respect to the Islands. In the case of sales and compensating use taxes, if the tax is occasioned by an event occurring on the Islands, the tax revenues derived therefrom shall be allocable to the Islands.

2. Other Revenue Attribution. In addition to the foregoing attribution of such state and local taxes by the method set forth in paragraph 1 above, to the extent not already included under such paragraph, the revenues collected from the following such taxes, to the extent presently or hereafter imposed by the states and their localities, shall, for the purposes of this article, be attributable directly to the Islands:

- a) State and local sales and compensating use taxes imposed with respect to (1) the provision of water, sewerage, gas, electricity, telephone or like utilities or utility services where such utilities or utility services are used or consumed on Ellis or Liberty Islands, irrespective of the facts that the delivery of such utilities or utility service occurs off the Islands, (2) the building of or the provision of access to or from Ellis or Liberty Islands, (3) the provision of sightseeing tours to, of or around Ellis and/or Liberty Islands or transportation to or from the Islands, irrespective

of the fact that such tour or transportation was purchased off the Islands, (4) sales of food and beverage and other tangible personal property by providers of such sightseeing tours to their patrons or by the providers of such transportation to their passengers, (5) fuel and all other tangible personal property purchased by providers of such tours or transportation and used directly in connection with the provision of such tours or transportation. Where such sightseeing tour or transportation includes other sites or destinations, such taxes shall be apportioned;

- b) State and local sales tax imposed by either state or its localities with respect to the purchase of tangible personal property, services or other items which are used or consumed on Ellis or Liberty Islands by persons residing thereon or in connection with a trade or business conducted thereon if with respect to such use or consumption there is due and owing state and local compensating use tax;
- c) State and local franchise, or business privilege or like taxes on the doing of business or taxes imposed on the earnings or income of business entities (including corporations), in the case of business activities conducted in either state which consists of (1) providing water, sewerage, gas, electricity, telephone or like utilities or utility services where such utilities or such utility services are used or consumed on Ellis or Liberty Islands, (2) the building of or the provision of access to or from Ellis or Liberty Islands, (3) conducting tours to, of or around Ellis and/or Liberty Islands or providing transportation to or from the Islands. The portion of such state and local taxes derived from such business activities

shall be attributable directly to Ellis and Liberty Islands;

- d) (1) Personal income taxes imposed by the states and their localities on other than persons residing on Ellis and Liberty Islands (i) personal income taxes imposed by the State of New York and its localities with respect to residents of the State of New York and its localities and (ii) personal income taxes imposed by the State of New Jersey and its localities with respect to residents of the State of New Jersey and its localities, in the case of income or wages from employment or earnings from self-employment of such residents derived from employment or self-employment (A) on Ellis or Liberty Islands, and (B) with respect to the building of or the provision of access to or from such Islands or the conducting of tours to, of or around Ellis and/or Liberty Islands or the provision of transportation to or from such Islands, the portion of such state and local taxes derived from such income or wages or earnings shall be attributable directly to Ellis and Liberty Islands and (2) nonresident personal income and earnings taxes imposed by either state and its localities with respect to persons residing on Ellis and Liberty Islands, in the case of such persons paying such taxes to either state and its localities, the taxes so paid by such persons shall be attributable directly to Ellis and Liberty Islands.

/s/ Mario M. Cuomo  
MARIO M. CUOMO  
Governor  
State of New York

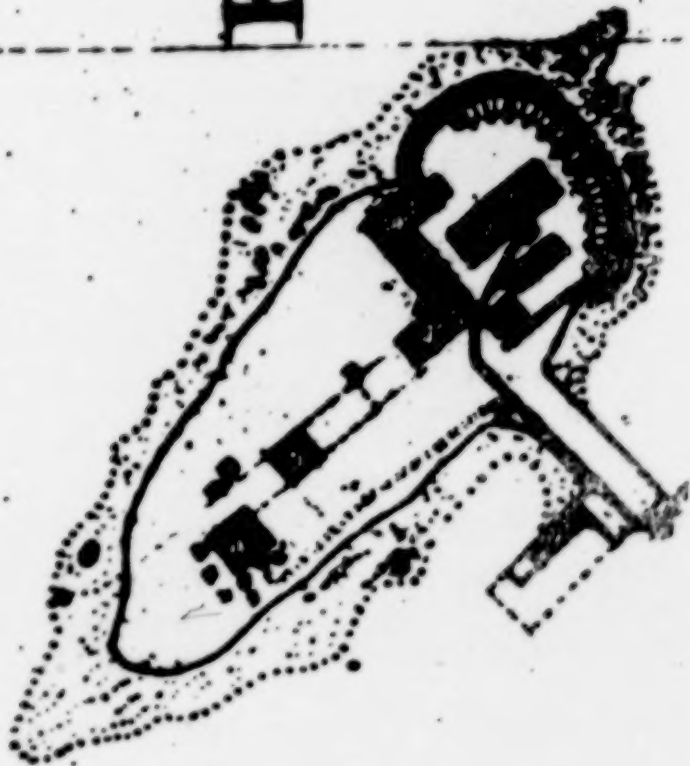
Date: *June 23, 1986*

/s/ Thomas H. Kean  
THOMAS H. KEAN  
Governor  
State of New Jersey

Date: *June 23, 1986*

APPENDIX I

Ellis' Island







Drawer 38.  
Sheet 5.

New York

Ellis's Island  
Fort Gibson

ENGINEER  
U. STATES  
TOP. BUREAU

A copy sent to Belmont.  
Delivered with letter of  
9 January 1868

By order of the  
Major General  
The date

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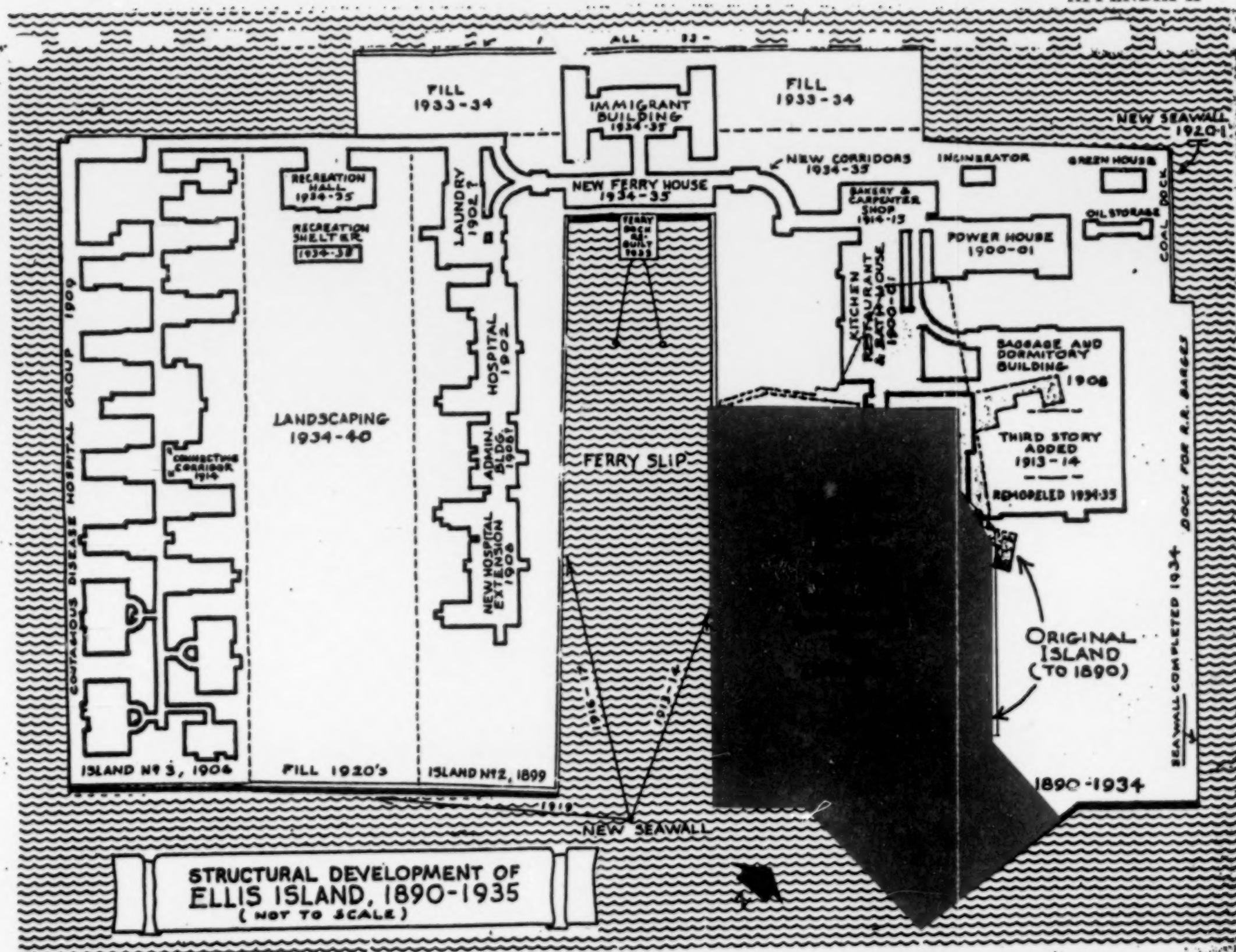


Drawn by Capt  
Pomeroy  
1868



38-5

Scale of the Plan  
Feet 0 100 200 300 400 500  
Miles 0 1 2 3 4 5



ON MICROFILM

HISTORIC BASE MAP

356 / 20.001

MP-ELIS-2

BEST AVAILABLE COPY